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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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11 DION PERALTA DURAN,

12 Plaintiff,

13 v.

14 COUNTY OF RIVERSIDE, et al.,

15 Defendants.  
16

Case No. 5:23-cv-00106-AB (JDE)

**ORDER ACCEPTING REPORT AND  
RECOMMENDATION OF UNITED  
STATES MAGISTRATE JUDGE**

17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the pleadings, the  
18 records on file, and the Report and Recommendation (“Report”) of the United  
19 States Magistrate Judge. Further, the Court has engaged in a *de novo* review of  
20 those portions of the Report to which objections have been made.

21 Plaintiff alleges violations of his civil rights while he was in pretrial  
22 detention. (Dkt. No. 70-1 at 6-7, 11.) The Report recommends the grant of  
23 summary judgment as to Plaintiff’s Fourteenth Amendment medical care claim  
24 against the County only and the denial of summary judgment in all other respects.  
25 (Dkt. 164 at 3.) Plaintiff’s objections to the Report (Dkt. No. 165) do not merit any  
26 change to the Report’s findings or recommendations.

27 Plaintiff objects to the Magistrate Judge’s denial of his motion for a sixth  
28 extension of time to file an opposition to the Motion for Summary Judgment. (Dkt.

1 No. 165 at 1-2.) The Magistrate Judge properly denied the motion for a sixth  
2 extension. Plaintiff previously was granted five extensions; represented that the  
3 fifth extension would be the “last and final extension” (Dkt. No. 150 at 1); had  
4 more than three months to research and draft an opposition and have it reviewed by  
5 another person; and waited until the day before the due date to request a sixth  
6 extension. (Dkt. No. 153.)

7 Plaintiff objects to the Magistrate Judge’s denial of reconsideration of the  
8 denial of his motion for a sixth extension of time to file an opposition to the Motion  
9 for Summary Judgment. (Dkt. No. 165 at 2-5.) The Magistrate Judge properly  
10 denied reconsideration. Plaintiff failed to show a material change in the law, a  
11 manifest failure to consider material facts presented previously, or new facts that  
12 either arose after the entry of the Order denying the extension or that could not have  
13 been presented previously. (Dkt. No. 160 at 2.) Although Plaintiff further objects  
14 that he should have been allowed to file a late opposition “due to inadvertence and  
15 excusable neglect” (Dkt. No. 165 at 4), he failed to show such relief was warranted.  
16 Because Plaintiff failed to show good cause for a sixth extension of time, he also  
17 failed to show inadvertence or excusable neglect as a basis to file an untimely  
18 opposition. *See Franchise Holding II, LLC v. Huntington Restaurants Group, Inc.*,  
19 375 F.3d 922, 927 (9th Cir. 2004) (“Because ‘good cause’ is typically enough to  
20 demonstrate ‘excusable neglect,’ no reason exists to analyze these criteria  
21 separately.”) (citation omitted); *Sprague v. Financial Credit Network, Inc.*, 2018  
22 WL 4616688, at \*3 (E.D. Cal. Sept. 25, 2018) (excusable neglect is not satisfied by  
23 simple inadvertence or mistake of counsel or ignorance of the rules) (citing cases).

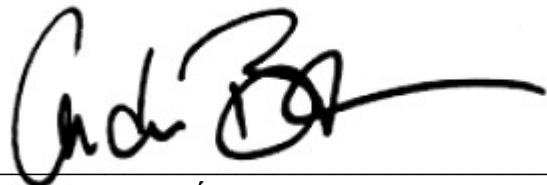
24 Plaintiff objects to the grant of summary judgment to the County on the basis  
25 that he did not file an opposition. (Dkt. No. 165 at 5-8.) The Report, however, did  
26 not recommend granting summary judgment to the County on this basis.

27 Plaintiff objects to the grant of summary judgment to the County on the basis  
28 that he had failed to show a genuine issue of material fact that must be resolved at

1 trial. (Dkt. No. 165 at 9-15.) Summary judgment on this claim was proper because  
2 the undisputed facts failed to show a constitutional violation. Plaintiff received a  
3 medical screening when he was booked into custody, was regularly seen by medical  
4 staff, and was promptly transferred to a hospital for treatment when Plaintiff  
5 reported symptoms of ulcerative colitis in August 2018. (Dkt. No. 164 at 12; *see*  
6 *also* Dkt. No. 136-2 at 83, 100-16, 367-72.) The record contains no evidence to  
7 support Plaintiff's claim that he submitted multiple requests and complaints related  
8 to ulcerative colitis before August 2018. (Dkt. No. 164 at 13.) Plaintiff offered no  
9 evidence that he alerted County personnel that he suffered from ulcerative colitis  
10 prior to August 2018. (*Id.* at 14.)

11 It is ordered that (1) the Report and Recommendation is approved and  
12 accepted; (2) Defendant's Motion (Dkt. No. 129) is granted in part, so that  
13 Plaintiff's Fourth Amendment medical care claim against the County is dismissed  
14 with prejudice, and the Motion is denied in all other respects; and (3) to the extent  
15 Plaintiff sought to file a motion for summary judgment in opposing the Motion,  
16 such motion was untimely by more than three and a half months under the operative  
17 scheduling order and is properly denied on that basis.

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19 DATED: July 11, 2025

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22 HON. ANDRÉ BIROTTE, JR.  
23 UNITED STATES DISTRICT JUDGE  
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